IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2330 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

CHHAGANJI MEGANJI DECD.THRO' HEIRS CHIMANJI CHHAGANJI

Appearance:
MR MUKESH PATEL, AGP, for Petitioners
MR GM AMIN for Respondents.

CORAM : MR.JUSTIC J.N.BHATT
and
MR.JUSTICE J.R.VORA

Date of decision: 11/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

The appellants have challenged the judgment and award recorded by the 3rd Joint District Judge, Ahmedabad (Rural) on 11th February, 1997 in Land Acquisition Case No.135/89, by invoking the aids of the provisions of section 54 of the Land Acquisition Act, 1894, inter alia, contending that the instance of sale, relied on by the reference Court in raising the amount of compensation is not comparable and that clarification is required to be made that the respondents-original claimants are not entitled to get interest on the 30 per cent solatium in respect of the land acquired.

In so far as the first part of submission made by learned AGP, Mr.Mukesh Patel, before us, is concerned, we find no substance, in view of the observations made in para 14 of the award and the facts and circumstances emerging from the record of the present case, through which, we were taken, in course of the hearing.

Again, the sale instance, reference of which is made in the judgment which is produced at Ex.16, is adequately and appropriately evaluated by the reference court. The land acquired in the present case and the parcel of land acquired in the comparable case relied on by the reference Court are adjoining in the same area in village Hathijan, Taluka Dascroi, Dist: Ahmedabad. Not only that, the claimant in his deposition at Ex.17, has, also, stated that for the adjoining parcel of land acquired by ONGC the Land Acquisition Officer, had awarded an amount of Rs.12 per sq. mtr., whereas, it was raised to an amount of Rs.37 per sq. mtr. by awarding an additional amount of Rs.25/- per sq. mtr. The notification under section 4 of the Land Acquisition Act for the lands of Ex.16 was published on 24.9.86, whereas, in the case on hand, the notification under section 4 came to be published on 18.8.86. It is, in this context, the reference Court has considered the relevant circumstances including the fertility of the land, and thereafter, accepting the comparable sale instance referred in the judgment Ex.16, which has become final, as declared at the Bar, the reference Court awarded additional compensation of Rs.34.75 ps. per sq. mtr. for the acquired land. In our opinion, therefore, the first contention raised on behalf of the appellant, by the learned AGP merits straightaway rejection. Accordingly, it is rejected.

So far as the second submission is concerned, we find substance therein. However, learned advocate Mr.Amin, appearing for the respondents, original claimants, has stated that the claimants shall not claim interest on 30

per cent solatium in respect of their acquired land. Not only that, he has, also, stated that the amount which was deposited and which has been withdrawn by the order of the Court, a copy of the statement is placed on record, did not include the interest on 30 per cent solatium. However, it is clarified, so as to obviate any miscalculation or misunderstanding and also for abundant precaution, that the first line in para 16 which reads that "the claimants are entitled to get 30% solatium in respect of their acquired lands" shall stand modified to the effect that "the claimants are entitled to get 30% solatium in respect of their acquired lands without any interest thereon". The second submission is, therefore, required to be accepted and the appeal is required to be allowed, partly.

In the circumstances narrated hereinabove, and the relevant proposition of law, the impugned judgment and award, in substance, shall stand approved and affirmed except with the aforesaid modification in respect of interest on the additional amount of 30 per cent solatium for which the learned advocate for the respondents-claimants, Mr.Amin, has, fairly, made a statement which is recorded hereinbefore. Technically, therefore, the appeal shall stand, partly, allowed with no order as to costs.

(J.N.Bhatt, J.)

(J.R.Vora, J.)
(vjn)